

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

**F048779      People v. Johnson**

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

**F048779      People v. Johnson**

The judgment is affirmed without prejudice to any relief to which defendant might be entitled after the United States Supreme Court determines in [Citations].

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F048801      People v. Gutierrez**

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

**F048801      People v. Gutierrez**

The judgment is affirmed without prejudice to any relief to which Gutierrez might be entitled after the United States Supreme Court determines the effect of *Blakely v. Washington, supra*, 542 U.S. 296 and *United States v. Booker* (2005) 543 U.S. 220 on California Law in *Cunningham v. California*, certiorari granted February 21, 2006, No. 05-6551.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F049225      People v. Elizondo**

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

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- F049225      People v. Elizondo**  
The judgment is affirmed.  
By the Court.  
[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]
- F048753      In re Christopher D., a Minor**  
The judgment is affirmed. William and Pamela shall recover their costs on appeal. Wiseman, Acting P.J.  
We concur: Levy, J.; Dawson, J.  
[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]
- F047148      Polkinghorne v. State Farm Mutual Auto Insurance Co. et al.**  
The judgment is reversed. Wiseman, Acting P.J.  
We concur: Levy, J.; Dawson, J.  
[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]
- F048347      People v. Gorham**  
Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.
- F048347      People v. Gorham**  
The judgment is affirmed with modifications.  
By the Court.  
[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]
- F050155      Benjamin J. v. The Superior Court of Madera Co.; Madera Co. Dept. of Public Welfare**  
Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

IN THE

**Court of Appeal of the State of California**

IN AND FOR THE

**Fifth Appellate District**

**F050155      Benjamin J. v. The Superior Court of Madera Co.; Madera Co. Dept of Public Welfare**

Let a writ of habeas corpus issue directing respondent court to vacate its order setting a section 366.26 hearing for August 4, 2006. Respondent court is further directed to ensure that the department inquires as to petitioner's Native American heritage and gives notice of the underlying proceedings in compliance with ICWA to the BIA and any identified tribes. (citation.) Respondent court shall document its efforts to provide such notice by filing such documentation and any and all responses received with the trial court. (citation.) If any tribe responds by confirming that the child is or may be eligible for membership within 60 days of sending proper notice under the ICWA to the BIA and any identified tribes (rule 1439(f)(6)), the court shall proceed pursuant to the terms of the ICWA. If no tribe so responds, the court may reinstate its order setting the section 366.26 hearing.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

**F050376      Matthew L. v. The Superior Court of Kern County; Kern County Department of Human Services**

Pursuant to the terms of this court's order of June 20, 2006, and the failure of any party to request oral argument, the oral argument date of July 13, 2006, is vacated. This matter is deemed submitted on the date of this order.

**F047948      People v. Clark**

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the case is submitted for decision.